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February 25, 2008

Mr. Louis C. Kirven
Commissioner, Department of Planning and Development
87 Nepperhan Avenue, Suite 312
Yonkers, New York 10701

RE: DGEIS, City of Yonkers Alexander Street Master Plan, Alexander Street Urban Renewal Plan, Alexander Street Brownfield Opportunity Area Plan

Dear Commissioner Kirven:

Thank you for sending to our office for review the Draft Generic Environmental Impact Statement (DGEIS) for the Alexander Street plans in the City of Yonkers. While redevelopment of this area of the City's waterfront and provision of public access along the shoreline by constructing an esplanade will provide access opportunities where they currently do not exist, the Proposed Action presents issues which require additional analysis or clarification.

You will note that some of our comments below were transmitted to the City in a May 2007 letter to James Pinto, President of Yonkers Brownfield Solutions, Inc., when we reviewed the drafts of the three plans prior to the completion of the DGEIS. Please be advised that our comments below only concern the substantive provisions of the DGEIS and do not address procedural or related issues.

Level of DGEIS Analysis

The basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making process of state, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant impact on the environment, and, if it is determined that the action may have a significant adverse impact, prepare or request an Environmental Impact Statement (EIS). An EIS needs to be prepared on the action so it addresses each part of the action at a level of detail sufficient for an adequate analysis of the significant adverse environmental impacts. An EIS provides a means for agencies, project sponsors and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation. It also provides information necessary to determine the consistency of the Proposed Action with the Coastal Management Program.

We understand a Generic EIS may be broader, and more general than site or project specific EISs, but it must include, even if based on conceptual information, an assessment of specific impacts if such details are available. The DGEIS submitted for the Alexander Street area is deficient in the level of analysis it provides by deferring consideration of certain site specific impacts of the individual project under consideration. For example, while we agree with the statement in the DGEIS that individual developers choosing to do in-water development (marinas/piers) would be required to perform specific environmental reviews, we do not agree with the assertion in the DGEIS that activities occurring beyond the existing bulkhead need not be analyzed in this DGEIS document.

Coastal Consistency Requirement

In accordance with the federal and State consistency provisions of the federal Coastal Management Act (CZMA) and Article 42 of the State Executive Law, respectively, certain federal and State agency actions and activities requiring agency authorizations are required to be consistent with the enforceable policies of New York's federally approved Coastal Management Program (CMP) and Local Waterfront Revitalization Programs (LWRP). The City of Yonkers does not have an approved LWRP. Absent an approved LWRP which would refine the CMP policies to reflect local conditions, the CMP policies apply.

The DGEIS contends that the Proposed Action is largely consistent with the 44 CMP policies. This assertion, however, is not sufficiently supported. Chapter 5 of the DGEIS identifies the CMP policies but does not adequately analyze the effects of the Proposed Action on, and its consistency with, the policies and purposes of the CMP. In addition to the policy statements themselves, the project must be evaluated for consistency with the CMP policy standards and conditions included as policy explanations. This is important because the policies are implemented, in large part, through the policy explanations. Additionally, as noted above, all elements of the project, including in-water aspects should be evaluated as part of the consistency process.

Significant Coastal Fish and Wildlife Habitats (SCFWH)

CMP Policy 7 is aimed at the protection of fish and wildlife resources of statewide significance. This policy is implemented primarily through the designation of Significant Coastal Fish and Wildlife Habitat (SCFWH) areas throughout the State's coastal zone. When considering the consistency of proposed actions with the CMP, it is necessary for SCFWH habitats to be protected, preserved, and where practical, restored as to maintain their viability as habitats. This means that land and water uses, including development, shall not be undertaken if such actions destroy or significantly impair the viability of an area as a habitat.

The proposed action is located within the Lower Hudson Reach, a State-designated SCFWH habitat. This designation affords special protection from potentially adverse federal or State actions which could impair the quality of the habitat. Narratives prepared for each habitat can be found at our website at http://www.nyswaterfronts.com/waterfront_natural_narratives.asp. These narratives describe each habitat, its fish and wildlife resources, and potential impacts. General information is also provided to assist in evaluating impacts of proposed activities based on characteristics of the habitat which are essential to the habitat's values. This information is used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant habitats policy.

The narrative for the Lower Hudson Reach SCFWH habitat specifically states that major structural alteration to the habitat through dredging, filling, or platforming on dense piles could

cause significant impairment of the habitat. It notes that current habitat values may best be protected by maintaining the current types and amount of structural diversity in the area. Based on the habitat narrative, elements of the Proposed Action could negatively impact the designated habitat and the natural resources values for which it was designated. The DGEIS asserts that impacts resulting from fill or shading of unvegetated tidal wetland, including the construction of marinas, and the creation of the Alexander Street Causeway, including the fill for a potential 350-foot breakwater, are expected to be minor and have no significant effect on any wetland or aquatic habitat or aquatic life. This statement is not supported. The GEIS needs to clearly demonstrate that the Proposed Action would not impair the significant habitat and is consistent with Policy 7 of the CMP. If this cannot be demonstrated, alternatives to eliminate these impacts need to be identified and analyzed.

Site Density and Visual Analysis

Overall, we are concerned with the density and intensity of uses being proposed at the site. The proposed plan includes structures as tall as 30 stories, 3,752 residential units, 423,200 square feet of commercial space, and 6,828 off-street parking spaces, some in parking levels seven stories high. The Proposed Action also calls for three marinas, one located in JFK Marina Park, and the construction of a new roadway connecting the Alexander Street redevelopment area to JFK Marina Park.

The visual impacts of the Proposed Action on the views of the Hudson River and the Palisades from upland areas, as well as the visual impacts of the Proposed Action from Palisades State Park and users of the Hudson River needs to be further documented and analyzed with visual simulations. Visual assessment photographs included in Chapter 3 of the DGEIS give little indication of the impacts of the proposed project from these vantage points. Without visual simulations of the Proposed Action from these and other key points, the visual impacts of this project cannot be assessed. The conclusions reached in the DGEIS that views of the immediate shoreline would be substantially improved, and that the Proposed Action would not result in a significant adverse visual impact on the surrounding area are not substantiated. In addition, consideration should be given to producing a rendered drawing-based digital three-dimensional model from a CAD base plan to illustrate public views to and from the proposed development from viewpoints on the proposed esplanade and other key public viewpoints.

The CMP analysis in the DGEIS should describe how the action will improve adjacent and upland views of the water, and, at a minimum, not affect these views in an insensitive manner. If this cannot be demonstrated, alternatives to eliminate these impacts need to be identified and analyzed.

The coastal policy explanation provides siting and facility-related guidelines to achieve this policy, including:

1. Siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore.
2. Clustering or orienting structures to retain views, save open space, and provide visual organization to a development.
3. Using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

Alternatives

Overall, the DGEIS does not provide a satisfactory description and evaluation of alternative site layouts that offer a range of feasible, reasonable alternatives to the proposed redevelopment. The reduced height and reduced density alternatives presented in the DGEIS primarily just decrease the number of residential units and buildings heights. These two alternatives do not provide a significant reconfiguration of the project or offer much reduction in site building coverage. As noted in the DGEIS, the reduced height alternative would be more visually disruptive to the surrounding community than the Proposed Action, primarily because of the loss of view corridors. According to the DGEIS the reduced density alternative would have a similar visual character to the Proposed Action, as it would utilize the same street grid and base and tower building type as the Proposed Action.

As the DGEIS notes, the site is serviced by public bus and rail service. The City has the opportunity to advance the concept of a transit-oriented development at this site, and decreased parking ratios should be considered. The mobility of pedestrians between the Proposed Action site and downtown transportation facilities should be facilitated, and preference given to pedestrians rather than automobiles. This may include a pedestrian, rather than automobile linkage, between the redevelopment site and JFK Marina Park.

Scaled back alternatives to be considered should provide for a reduced building footprint, greater reduction in residential units and off-street parking spaces, increased setbacks of structures from the Hudson River shoreline, and additional meaningful public open space and recreational opportunities in the Alexander Street redevelopment area. These alternatives may also enhance visual interest of the project through the design and siting of structures. Alternatives for public recreation opportunities to JFK Marina Park should also be explored that do not include potential impacts to the State Designated Coastal Fish and Wildlife habitat.

Marina Impacts

The DGEIS should describe how construction of marinas, and other water-dependent uses, if any, will be facilitated and accommodated. It appears that these uses will simply be encouraged. If two marinas are to be components of the Alexander Street Development Area, the DGEIS should describe and analyze how additional parking will be located at the site. Impacts to the public and public parkland due to the proposed marina, Alexander Street Causeway, and restaurant proposed for JFK Marina Park should also be described and analyzed. As noted above, impacts to the Significant Habitat if dredging is required to accommodate the marinas needs further analysis. A discussion as to any potential transfer or lease of public lands, including lands underwater or formerly underwater, also needs to be provided.

Water Quality

The DGEIS does not adequately address potential water quality impacts which may result from stormwater runoff generated by the proposed development. Any activity that would further degrade water quality in the Lower Hudson Reach would adversely affect habitat values for fish and wildlife using the area. Many species of fish and wildlife would be adversely affected by water pollution through chemical or toxic contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Impaired water quality or transient disturbances may result in barriers to migration that would have significant impact on populations of anadromous fishes that migrate to the Hudson River for spawning, generally throughout the year depending on particular species.

The applicant must examine both pre- and post- development conditions in order to compare changes in runoff volumes and water quality and demonstrate that the proposed stormwater management system is sufficient to avoid or minimize the potential impacts to water quality in the Hudson River as well as the ecological functioning of the designated Significant Fish and Wildlife Habitat. Suggesting that compliance with the Stormwater General Permit will be sufficient to avoid or minimize impacts may constitute segmentation which is contrary to the intent of SEQR.

The analysis of stormwater management should be presented at a level of detail sufficient for all interested and involved agencies to determine the potential effectiveness in preventing water quality impacts. At minimum, this analysis should include a preliminary/conceptual stormwater management plan that depicts the location of all components of the stormwater management system as well as the design of these facilities. The analysis should be sufficient to determine effectiveness in managing stormwater volume (quantity) and treating runoff to ensure stormwater quality is acceptable before being discharged to the Hudson River. The guidelines included in Appendix E of the New York State Stormwater Management Design Manual should be included in a preliminary/conceptual stormwater management plan.

Notwithstanding the above, please note that if any element of this proposal will seek funding from or require a permit or authorization from a federal agency, the proposed activity would be subject to the consistency provisions of the federal Coastal Zone Management Act and implementing regulations in 15 CFR Part 930. Additional information regarding these requirements is available from this office or on the Department's web site located at nyswaterfronts.com.

If you have any questions regarding these comments, please contact me at (518) 473-0353.

Sincerely,

Bonnie Devine
Coastal Resources Specialist
Division of Coastal Resources